

ASSEMBLY BILL

No. 796

Introduced by Assembly Member Bogh

February 20, 2003

An act to amend Section 6309 of the Labor Code, relating to occupational safety and health.

LEGISLATIVE COUNSEL'S DIGEST

AB 796, as introduced, Bogh. Occupational safety and health: violations.

Existing law requires the Division of Occupational Safety and Health of the Department of Industrial Relations to investigate specified complaints concerning unsafe employment or places of employment, with certain requirements.

This bill would make a technical, nonsubstantive change to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6309 of the Labor Code is amended to
2 read:
3 6309. If the division learns or has reason to believe that any
4 employment or place of employment is not safe or is injurious to
5 the welfare of ~~any~~ an employee, it may, of its own motion, or upon
6 complaint, summarily investigate the same with or without notice
7 or hearings. However, if the division secures a complaint from an
8 employee, the employee's representative, including, but not

1 limited to, an attorney, health or safety professional, union
2 representative, or representative of a government agency, or an
3 employer of an employee directly involved in an unsafe place of
4 employment, that his or her employment or place of employment
5 is not safe, it shall, with or without notice or hearing, summarily
6 investigate the same as soon as possible, but not later than three
7 working days after receipt of a complaint charging a serious
8 violation, and not later than 14 calendar days after receipt of a
9 complaint charging a nonserious violation. The division shall
10 attempt to determine the period of time in the future that the
11 complainant believes the unsafe condition may continue to exist,
12 and shall allocate inspection resources so as to respond first to
13 those situations in which time is of the essence. For purposes of this
14 section, a complaint is deemed to allege a serious violation if the
15 division determines that the complaint charges that there is a
16 substantial probability that death or serious physical harm could
17 result from a condition which exists, or from one or more
18 practices, means, methods, operations, or processes which have
19 been adopted or are in use in a place of employment. When a
20 complaint charging a serious violation is received from a state or
21 local prosecutor, or a local law enforcement agency, the division
22 shall summarily investigate the employment or place of
23 employment within 24 hours of receipt of the complaint. All other
24 complaints are deemed to allege nonserious violations. The
25 division may enter and serve any necessary order relative thereto.
26 The division is not required to respond to any complaint within this
27 period where, from the facts stated in the complaint, it determines
28 that the complaint is intended to willfully harass an employer or
29 is without any reasonable basis.

30 The division shall keep complete and accurate records of any
31 complaints, whether verbal or written, and shall inform the
32 complainant, whenever his or her identity is known, of any action
33 taken by the division in regard to the subject matter of the
34 complaint, and the reasons for the action. The records of the
35 division shall include the dates on which any action was taken on
36 the complaint, or the reasons for not taking any action on the
37 complaint. The division shall, pursuant to authorized regulations,
38 conduct an informal review of any refusal by a representative of
39 the division to issue a citation with respect to any alleged violation.
40 The division shall furnish the employee or the representative of

1 employees requesting the review a written statement of the reasons
2 for the division's final disposition of the case.

3 The name of any person who submits to the division a complaint
4 regarding the unsafeness of an employment or place of
5 employment shall be kept confidential by the division, unless that
6 person requests otherwise.

7 The requirements of this section do not relieve the division of
8 its requirement to inspect and assure that all places of employment
9 are safe and healthful for employees. The division shall maintain
10 the capability to receive and act upon complaints at all times.

